

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington D.C. 20554

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In the Matter of)

Implementation of Section 302 of)
the Telecommunications Act of 1996)

CS Docket No. 96-46

Open Video Systems)

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REPLY COMMENTS OF CITY OF PORTLAND, OREGON

The City of Portland, Oregon's Office of Cable Communications and Franchise Management respectfully submits these reply comments to the Federal Communications Commission ("Commission" or "FCC") in the above-captioned proceeding.

I. INTRODUCTION

On March 11, 1996, the Commission released a Notice of Proposed Rulemaking (FCC 96-99) ("Notice"), requesting comment on how it should implement the regulatory framework for open video systems ("OVS"). In response, the National League of Cities, the National Association of Telecommunications Officers and Advisors, the National Association of Counties, the U.S. Conference of Mayors, Montgomery County, and several cities (hereinafter "NLC"), filed joint comments containing specific proposals for implementing that framework.

In their comments, NLC identified four key principles that must guide the Commission in formulating its rules. First, the Commission's rules regarding the PEG and other Title VI requirements mandated by Congress for OVS must ensure that OVS operators will meet local community needs and interests. Second, the Commission must adopt nondiscrimination provisions that ensure that all programmers will have truly open and affordable access to OVS and that prevent an OVS from becoming a cable system in disguise. Third, the 1996

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Telecommunications Act does not permit cable operators to become OVS operators. Fourth, the Commission's rules must acknowledge the property interests that local governments hold in the local public rights-of-way.

The City of Portland strongly supports NLC's comments and urges the Commission to follow these four principles in formulating OVS rules. The City of Portland discusses below its experience in creating and implementing PEG obligations that meet critical local needs.

II. DISCUSSION

The Commission's statutory mandate in adopting PEG requirements for OVS is clear. As NLC notes, the Telecommunications Act of 1996 requires the Commission to establish PEG obligations for OVS that are consistent with local needs and interests, and to impose on an OVS operator obligations equivalent to those obligations imposed on cable operators. To fulfill these mandates, the Commission should, as proposed by NLC, require OVS operators "to match or negotiate," that is, to match each incumbent cable operator's PEG obligations, or to negotiate agreements acceptable to the affected communities.

The record in this proceeding demonstrates that local governments -- as franchising authorities and PEG programmers -- play a critical role in ensuring that local communications needs and interests are met.¹ Moreover, local governments, as the National Cable Television

¹ See, e.g., Comments of the Below-Named Political Subdivisions of the State of Minnesota at 7 (franchising authorities have "considerable experience in successfully negotiating, creating and implementing . . . PEG obligations"); Comments and Petition for Reconsideration of the National Cable Television Association, Inc, at 34 ("The local franchising authority is the governmental entity best positioned to appreciate community needs and most experienced in the implementation of PEG access rules"); and Joint Comments of Cablevision Systems Corporation and the California Cable Television Association at 21 ("Congress certainly understood that PEG access requirements are now imposed by localities to meet critical localism goals").

Association states, “are in the best position to deliver on the Act’s intent to accomplish PEG access over open video systems.”²

In the City of Portland, PEG programming is provided through Portland Cable Access (PCA). City Council, following recommendations from a citizens’ task force, provided for community access to designated channels by incorporating PCA into its franchise agreement in 1981.

PCA has programming responsibilities for five channels and a total of 17 employees. In FY 1995-96, 2,243 citizen volunteers were trained to produce programs for public access, making Portland’s system one of the most advanced in the country. These citizens learn how to use cameras, audio equipment and television production techniques in order to make their own community programming. PCA produced 4,187 hours of television programs, 1000 hours of which came from new program sources. The PCA facility logged 3,762 hours of use of its portable cameras, 470 hours of production for its production van and its two studios were actively involved for more than 3,899 hours of production and editing. 2,243 citizen volunteers were trained to produce programs for public access, making Portland’s system one of the most advanced in the country. These citizens learn how to use cameras, audio equipment and television production techniques in order to make their own community programming. The public access channels are much in demand and producers must sometimes wait to arrange for their programs to be aired.

² Comments and Petition for Reconsideration of the National Cable Television Association, Inc, at 33. See also, Comments of MFS Communications Company, Inc at 27 (“the manner in which OVS operators and/or their customer programmers comply with the PEG obligations should generally be worked out between the programmer and the local government entity that oversees the implementation of these rules for cable operators”).

Since its beginning, examples of PCA's programming include statewide informational conferences sponsored through the Governor's office; Portland school board meetings; regional drug conferences;; a controversial sewer project to take City services to 50,000 residences in the mid-county area; gavel to gavel coverage of controversial hearings, one on the racist murder of Muligetta Seraw and another on alleged corruption at the highest level of the Portland Police Department. PCA works in cooperation with other regional access providers cable casting and programming for an interconnected government channel featuring weekly live City Council meetings, school Board meetings, and monthly council meetings and topic specific conferences for Metro, a regional government responsible for regional land use development and solid waste disposal and for regional cultural facilities including the Zoo and the Performing Arts Center.

In the 15 years since its formation, Portland Cable Access has played an important role in assuring that the general public has had access to the emerging technologies available through cable television and is beginning to develop programs to include the full range of telecommunications services emerging today.

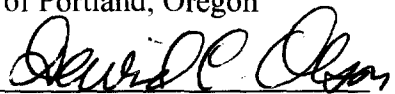
By adopting NLC's proposal, the Commission will ensure that PEG access continues to serve local needs and interests in the City of Portland, and will satisfy the Commission's statutory mandate to impose equivalent obligations on OVS and cable operators.

III. CONCLUSION

The City of Portland, Oregon's Office of Cable Communications and Franchise Management respectfully requests the Commission to adopt a framework for OVS consistent with the proposals and principles recommended by NLC et al in their comments.

Respectfully submitted,

City of Portland, Oregon

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